BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH

In the Matter of the Application of	)	No. PP13-00005; AAS13-00004
	)	
	)	
Providence Ridge	)	Providence Ridge Preliminary Plat
	)	
	)	FINDINGS, CONCLUSIONS,
For Approval of a Preliminary Plat	)	AND DECISION

SUMMARY OF DECISION

The request for a Preliminary Plat to subdivide 12 acres into 42 single-family residential lots; to reduce the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback; and to reduce lot sizes below the zoning minimum to accommodate the transfer of density from the environmental critical areas at 221XX SE 43rd Way in Issaquah, Washington is **APPROVED**. Conditions are necessary to mitigate specific impacts of the proposed development.

SUMMARY OF RECORD

Hearing Date:
The Hearing Examiner held an open record hearing on the request on May 12, 2014.

Testimony:
The following individuals presented testimony under oath at the hearing:

Peter Rosen, Senior Environmental Planner
Greg Krabbe, representing the Applicant
Fred Foster
Susan Forbes
Patrick Rooney
Doug Schlepp, City Engineer

Exhibits:
The following exhibits were admitted into the record:

1. Preliminary Plat Application, PP13-00005, and Administrative Adjustment of Standards Request, AAS14-00004, received October 28, 2013
2. Vicinity Map, undated
3. Providence Ridge Project Narrative, received October 28, 2013
4. Project Plans, six sheets[1]:

[1] All six Project Plan sheets indicate they were revised per City review on April 17, 2014.

a. Boundary/Topography Map (sheet 1), dated August 29, 2013
b. Site Plan (sheet 2), dated February 4, 2014
c. Conceptual Road/Grading Plan (sheet 3), dated August 29, 2013
d. Road Profiles (sheet 4), dated August 29, 2013
e. Conceptual Utility Plan (sheet 5), dated August 29, 2013
f. Tree Retention Plan (sheet 6), dated August 29, 2013

5. Landscape Plans, six sheets, dated October 22, 2013[2]:
    a. Site Plan (sheet LA-1)
    b. Street Tree Plan (sheet LA-2)
    c. Street Tree Plan (sheet LA-3)
    d. Street Tree Plan (sheet LA-4)
    e. Detention Vault and Tract 'H' Landscape Plans (LA-5)
    f. Planting Notes and Plant Schedule (LA-6)
6. Wetland Reconnaissance, dated October 17, 2013
7. Geotechnical Reports:
    a. Geotechnical Engineering Study, dated December 31, 2007
    b. Supplemental Geotechnical Exploration and Stability Evaluation, dated September 12, 2008
    c. Addendum to December 31, 2007, Geotechnical Report, dated October 25, 2013
    d. Geotechnical Engineering Slope Stability Analysis, dated March 24, 2014
    e. Providence Ridge – Geotechnical Engineering – Condensed Comments and Recommendations, dated April 8, 2014
8. Preliminary Technical Information Report, dated October 18, 2013
9. Providence Ridge Preliminary Plat Deviation Request, dated January 15, 2014; City Approval of Deviation from Street Standards, dated February 14, 2014
10. Traffic Impact Study, dated January 15, 2014
11. Certificate of Transportation Concurrency, CON13-00010, dated March 4, 2014
12. Affidavits of Public Notice:
    a. Affidavit of Sign Installation, dated May 5, 2014
    b. Affidavit of Service of Mailing, dated April 28, 2014
    c. Affidavit of Publication, dated April 23, 2014
    d. Affidavit of Service of Mailing (for Notice of Application), dated November 6, 2013
13. Public Comments:
    a. Email from Lonnie Davey, received April 29, 2014
    b. Email from Karen Walter, received April 14, 2014
    c. Email from Joe Coakley, received March 26, 2014
    d. Email from Rowena Hall, received November 18, 2013
    e. Email from N.L. Molvik, received November 7, 2013
14. River & Streams Board Meeting Minutes, dated February 4, 2014
15. Environmental Checklist, dated October 22, 2013

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[2] All six Landscape Planning Sheets state they have been revised per City comment letter dated February 25, 2014.

16. SEPA Determination (MDNS), issued April 16, 2014
17. King County Certificate of Water Availability, dated November 21, 2013; Sammamish Plateau Water and Sewer District Developer Extension Agreement, dated November 22, 2013
18. Letter from Edward Broeder, dated August 19, 2009
19. Providence Ridge Preliminary Plat, Staff Report, dated May 12, 2014
20. Aerial View of Site, undated
21. Email from Garth Cray (State Parks & Recreation Commission), dated May 6, 2014

The Hearing Examiner enters the following Findings and Conclusions based upon the testimony and exhibits admitted at the public hearing:

FINDINGS

Application and Notice

1. Greg Krabbe, Windward Real Estate Services, Inc., on behalf of Sungh Lee Kim of Providence Point/Delta Inn Construction (Applicant), requests approval of a preliminary plat to subdivide a 12-acre site into 42 single-family residential lots. The proposal includes a request for an Administrative Adjustment of Standards to reduce building setbacks on individual lots.[3] *Exhibit 1; Exhibit 3; Exhibit 19, Staff Report, pages 1 and 2.*

2. The City of Issaquah (City) determined the application was complete on November 6, 2013. The City mailed notice of the application and neighborhood meeting to adjacent property owners on November 6, 2013. The City published notice of the SEPA determination in *The Issaquah Press* on April 16, 2014, and posted notice on the property on April 25, 2014. On April 28, 2014, the City mailed notice to adjacent property owners of the May 12, 2014, open record hearing before the Hearing Examiner. *Exhibit 12; Exhibit 19, Staff Report, page 3.*

State Environmental Policy Act (SEPA)

3. The City acted as lead agency and analyzed the environmental impacts of the proposed project as required by SEPA, Chapter 43.21C RCW. The City reviewed the Applicant's environmental checklist and other available information, and determined that, with 10 mitigation measures, the proposed project would not have a probable significant adverse impact on the environment. The City issued a Mitigated Determination of Nonsignificance (MDNS) on April 16, 2014. The mitigation measures direct that: the Applicant submit details of an intermittent stream crossing the property to ensure a proposed bridge is adequately designed; all submitted geotechnical design requirements, recommendations, and development practices be followed; all walls shown on the plat plans be designed/engineered as retaining structures (rockeries are not considered retaining structures); an interceptor trench drain be built; detailed plans of structures,

[3] The subject property is identified by Tax Assessor Parcel No. 162406-9103. A legal description of the property is included with the Boundary/Topography Map. *Exhibit 4.a.*

retaining walls, buildings, and grading proposals be submitted prior to issuance of construction and building permits; tree retention areas be protected by an easement in place prior to construction or demolition activities; channelization plans for SE 43rd Way be approved by the City prior to issuance of construction permits; and the Applicant make a voluntary contribution for the General Government Buildings and Police Mitigation Fees. The MDNS designation was not appealed. *Exhibits 4 through 8; Exhibits 15 and 16; Exhibit 19, Staff Report, pages 9 and 10.*

Proposed Development

4. The Applicant proposes to subdivide a 12-acre site into 42 single-family residential lots. The proposal includes separate tracts for critical area protection (steep slopes, wetlands, stream), open space, tree retention, a sewer lift station, and private access/utility tracts. The preliminary plat would allow for construction of utilities, roadways, stormwater facilities, site grading, and other plat improvements prior to recording of a final plat to establish the lots and for review of building permits for construction of the residences. The proposed site is constrained by environmental critical areas and wetland buffers. To avoid directly impacting critical areas or buffers, the development area is concentrated on six acres of the 12-acre site. The Applicant proposes to reduce the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback from the reduced buffer. The proposal also includes an Administrative Adjustment of Standards (AAS) to reduce building setbacks on individual lots. *Exhibits 3 through 5; Exhibit 19, Staff Report, pages 1 through 17.*

Comprehensive Plan, Zoning, AAS, and Surrounding Property

5. The property is designated Low Density Residential (LDR) by the City Comprehensive Plan. The purpose and intent of the LDR designation is:

> to provide a variety of housing types and densities within a full range of urban services. The primary use in this designation is housing. The appropriate density of the individual residential zoning districts is based on the availability of urban services and the proximity to local streets, arterials and pedestrian access. Those areas with critical areas shall be appropriate for low density residential, with the intent to protect environmentally critical areas from impacts associated with more intensive development. These environmentally critical areas are valued as a community resource, both for conservation purposes and public enjoyment; provided, that the environmentally critical areas are protected, low density single family residential use may be appropriate.

City of Issaquah Comprehensive Plan, Table L-3 – Land Use Designations: Purpose and Intent, page L-11. The property is located within the "North Issaquah" Subarea of the Comprehensive Plan. *Exhibit 19, Staff Report, page 5.*

6. The property is located within the City's Single-Family Small Lot (SF-SL) zoning district. The purpose of the SF-SL zone is to:

provide for single family neighborhoods which are in close proximity to low density multifamily neighborhoods and urban services. The district may include some of the historic plats of Issaquah. Appropriate areas for this district include those neighborhoods which are currently medium density single family or would b suitable because of the compatibility to surrounding densities and proximity to urban services. Permitted uses include single family homes, assisted living facilities and senior housing. Recreational uses which serve the neighborhood and urban services are also permitted; provided, that traffic and other related impacts are not detrimental to the district. . . [T]he following objectives also apply to this district:

1. Establish and preserve residential neighborhoods;
2. Encourage the reuse and remodeling, rather than demolition, of historic buildings to provide alternative housing opportunities;
3. Provide opportunities for single family residential development in areas served by public and urban services.

Issaquah Municipal Code (IMC) 18.06.100.D. Exhibit 3; Exhibit 19, Staff Report, page 6.

7. The SF-SL zoning designation allows for single-family residential development at a maximum density of 7.26 dwelling units per acre. *IMC Table 18.07.360.* The proposed site is constrained by environmental critical areas and wetland buffers. To avoid directly impacting critical areas or buffers, the proposed development area is concentrated on six acres of the 12-acre site. Critical areas and associated buffers, including steep slopes, wetlands, and streams, which cannot be developed, receive partial density credit, which may then be transferred to the developable area of the site. *IMC 18.10.450.B.2.* An area equal to 4.28 acres, or 35.5 percent of the total site area, consists of critical areas and buffers. The City code allows for a 70 percent density credit when 31 to 40 percent of the proposed site is encumbered with critical areas. *IMC 18.10.450.B.2.* Accounting for density credit, the site's proposed 42 lots fall below the allowable maximum density. *Exhibit 3; Exhibit 6; Exhibit 19, Staff Report, page 7.*

8. The SF-SL zoning designation allows for a 6,000 square foot minimum lot size, but the City code permits "lot sizes below the minimum required for that zone to accommodate the transfer of density" from critical areas, provided the maximum zoning density is not exceeded. *IMC 18.10.450.B.3.* For the proposed project, 39 of the 42 lots will be less than 6,000 square feet, with 27 of the lots less than 4,000 square feet. The proposed project includes 186,437 square feet of critical areas and buffers, however, and the total reduction in the lot sizes below the 6,000 square foot minimum lot size is 96,491 square feet. Lot sizes have been reduced in order to accommodate the transfer of density from critical areas. *Exhibit 3; Exhibit 19, Staff Report, page 7.*

9. The SF-SL zone allows a maximum impervious surface area of 50 percent. *IMC 18.07.360, Table 1.* Critical areas and buffers may be counted toward the pervious surface requirement. *IMC 18.07.360, Table 1, note 4.* Over half of the total proposed site area is in critical areas/buffers and open spaces. In addition, the site plan shows conceptual building footprints on each of the lots and all lots meet the 50 percent impervious surface limit. The Applicant estimates that the overall impervious surface area for the development will be approximately 35 percent. The 50 percent impervious surface limit must be met on each of the lots, and this will be reviewed and verified with building permits. *Exhibit 4.b; Exhibit 19, Staff Report, page 8.*

10. The SF-SL zone typically requires 10-foot front yard building setbacks, 20-foot rear yard setbacks, and 6-foot side yard setbacks. The Applicant has proposed an AAS to reduce building setbacks on all of the lots due to the reduced lot sizes. The proposal is for 3-foot front yard setbacks, 17-foot rear yard setbacks, and 3-foot side yard setbacks. The purpose and intent of administrative adjustment of development standards is "to provide flexibility to modify standards in all zoning districts, without permitting a setback adjustment that would negatively impact the surrounding neighborhood." *IMC 18.07.330.* Specifically, the City code states that an AAS may be approved when it accomplishes the objective of coordinating "development with adjacent land uses and the physical features of the site." *IMC 18.07.330.A.3.* The proposed reduction in setbacks is necessary due to the site's protected critical areas. *Exhibit 1; Exhibit 3; Exhibit 19, Staff Report, page 14.*

11. The Code requires that an "adjustment of setbacks is compatible in scale and character with existing neighboring land uses." *IMC 18.07.330.B.1.* The site is not directly adjacent to surrounding development. *Exhibits 2 and 3; Exhibit 19, Staff Report, page 15*; *Testimony of Mr. Rosen.*

12. The Providence Point senior housing development is located to the north of the proposed site, across SE 43rd Way, and adjacent to the east. Providence Point includes a variety of housing types, including single-family detached and attached residences. Lands to the south and west of the site are undeveloped and owned by the State. A steep ravine to the south of the site slopes down to Laughing Jacobs Creek, which flows west into Lake Sammamish. *Exhibit 3; Exhibit 14; Exhibit 19, Staff Report, page 4.*

Existing Conditions

13. The project site is presently undeveloped and heavily forested. The south part of the site slopes steeply down to Laughing Jacobs Creek. There is an existing sanitary sewer trunk line and associated access road along the south property boundary, which is graded into and interrupts the steep slope. An intermittent seasonal stream crosses the west part of the site, originating off-site from a stormwater detention pond located on the Providence Point development. The site contains one wetland area (Wetland C), a 1,401 square foot Category 3 wetland located in the southeast part of the site. The wetland buffers, from

two off-site wetlands, extend onto the southwest corner of the site. *Exhibit 3; Exhibit 6 and 7; Exhibit 14; Exhibit 19, Staff Report, page 4.*

Critical Areas

14. Steep slopes along the south part of the site exceed a 40 percent incline and are therefore protected as an environmental critical area. The Applicant proposes to reduce the 50-foot steep slope buffer to 10 feet, as allowed by IMC 18.10.850. The project proposal calls for a 15-foot building setback from the reduced buffer, with no occupied building within 25 feet of a steep slope. The Applicant prepared geotechnical reports to address slope stability and the steep slope buffer reduction. The City had an independent peer review completed on the geotechnical reports. The City determined that the recommendations from the geotechnical peer review were necessary to address slope stability and incorporated them as SEPA mitigation measures. The steep slope and buffer areas are included in separate tracts from the developable area of the site. *Exhibit 7; Exhibit 19, Staff Report, page 10; Testimony of Mr. Rosen.*

15. The site includes an intermittent stream on its northwest portion, one on-site wetland, and two off-site wetlands, with the wetland buffer areas extending onto the southwest corner of the site. The proposal calls for a public trail and pedestrian bridge crossing that will encroach into and impact the stream buffer. A SEPA mitigation measure requires the stream buffer impacts resulting from the trial be quantified and the stream buffer enhanced to mitigate for the trail encroachment impacts. The intermittent stream/50-foot wide stream buffer, and the wetland and wetland buffer areas are included in separate tracts that would be protected from development in perpetuity. *Exhibit 6; Exhibit 16; Exhibit 19, Staff Report, page 10.*

16. The City's River & Streams Board held a neighborhood public meeting on February 4, 2014, and took public comments regarding tree retention next to the steep slope, use of herbicides and pesticides, inspection of windfall/hazard trees after site clearing, and the hydrology of wetlands. These comments were summarized by the board, and placed in the record. *Exhibit 14.*

Landscaping and Tree Retention Areas

17. Subdivisions in the SF-SL zone must retain a minimum of 30 percent of the total caliper of existing significant trees outside of critical areas and buffers. The Tree Retention Plan shows trees would be preserved in a contiguous area located on the back/south portion of Lots 13 through 39. The tree retention area would be separated from the developed lots by retaining walls and therefore would be outside clearing and grading limits, which is preferable to protecting individual or small tree stands on the developing lots. A SEPA mitigation measure requires the trees to be protected by recording a restrictive easement on the back of the lots. The tree retention area is located contiguous to the steep slope and steep slope buffer area. This provides additional "buffer," or undeveloped area, adjacent to the steep slopes. A SEPA mitigation measure requires that tree protection

measures be in place prior to any other construction or demolition activities. When clearing/grading for the development occurs adjacent to the tree retention areas, the preserved trees along the edge would be newly exposed to wind and weather conditions that could result in tree blowdowns and/or hazard trees. *Exhibit 4.f; Exhibit 16; Exhibit 19, Staff Report, page 9.*

18. The Applicant has submitted landscape plans showing plantings along the street frontages, in the common open space areas, and over the sewer lift station. The plant selection and landscape details would be further reviewed with construction permits. *Exhibit 5; Exhibit 19, Staff Report, page 9.*

Stormwater

19. Stormwater runoff from the proposed development will be collected by a proposed on-site drainage system and discharged into a proposed detention vault. The proposed detention vault would provide detention and treatment, which includes sediment storage, for the post-development stormwater runoff. Water quality requirements would be met by routing appropriate flows through a filter vault located upstream of the proposed detention vault. The runoff from the proposed detention vault would be discharged into the existing stream located on the west side of the project site. The proposal also calls for an interceptor trench drain behind the top of the cut bank, in the steep slope, and a dispersion system to intercept near-surface groundwater seepage flowing towards the cut bank. The City would maintain the site's stormwater facilities after development. *Exhibit 5.e; Exhibit 7; Testimony of Mr. Rosen; Testimony of Mr. Schlepp.*

20. The project area is within an area of increased scrutiny for hydrological concerns. Accordingly, increased scrutiny of stormwater treatment is necessary because phosphorous must be filtered and removed from the collected stormwater before it is discharged into the existing stream. *Exhibit 19, Staff Report, page 12; Testimony of Mr. Krabbe.*

Access, Frontage, and Parking

21. The site would be accessed off SE 43rd Way, which is designated as a principal arterial in the City's Comprehensive Plan. City street standards require that streets intersecting a principal arterial be spaced a minimum of 2,600 feet from the nearest intersecting public street. The Providence Ridge preliminary plat access would be approximately 1,000 feet from the nearest intersecting street to the east, at Providence Point Place SE. Accordingly, the Applicant requested a deviation from this road standard on January 15, 2014. After evaluating sight distance, site access, level of service, and channelization improvements, the City approved the street deviation request on February 14, 2014. *Exhibits 9 and 10; Exhibit 19, Staff Report, page 11.*

22. Access to the proposed subdivision will be provided by a new public street connecting to SE 43rd Way. The main public street through the project, 'Road A,' is proposed with two

11-foot wide drive lanes, a 5-foot wide planter strip, and a 5-foot wide sidewalk on the south side of the street (fronting Lots 13-32). Sidewalks would not be provided on the north side of the street. The proposed road width would not allow for on-street parking. There are two private access/utility easements (Tracts I and J) at the east and west ends of the development. Tract J, located at the east end of the development, would provide access to Lots 33-38, and Tract I will access Lot 13 and the sewer lift station tract (Tract F). Lots 37-39, accessed off Tract J, appear to be located over 150 feet from a fire apparatus turnaround. *Exhibit 4; Exhibit 19, Staff Report, page 11.*

23. The City has plans to signalize the intersection of SE 43rd Way and Providence Point Place SE, located approximately 1,000 feet to the east of the proposed road access into Providence Ridge, as part of its Six-Year Transportation Improvement Program. *City T.I.P., 2013-2018, Exhibit B.*[4] The construction of the improvements is currently unfunded, and the timing is unknown. The road access and related channelization improvements on SE 43rd Way proposed by Providence Ridge have been reviewed for coordination with the City's project. *Exhibits 9 and 10; Exhibit 19, Staff Report, page 11.*

24. The City code requires two parking spaces per single-family residence. *Chapter 18.09 IMC.* Each residence would have a two-car garage to meet this standard. This would be reviewed with building permits. No additional on-street parking is proposed. With reduced front yard building setbacks, driveways may not be of sufficient length to allow for parking because cars would overhang onto sidewalks, impeding pedestrians, or encroach into the street where sidewalks are not provided, which could obstruct emergency access. Therefore, driveways would provide a length of at least 18 feet on-site, if intended for parking, or shall be less than 8 feet in length to clearly indicate they are not designed to accommodate parking. This would be reviewed with building permits. *Exhibit 4; Exhibit 19, Staff Report, page 9.*

Traffic

25. A traffic concurrency analysis was conducted to evaluate the impacts of traffic generated by the proposal on level of service operations at intersections. Transportation Engineering NorthWest (TENW) provided a Trip Generation Memorandum for the proposed subdivision, based on methodology included in the *Institute of Transportation Engineers (ITE) Trip Generation Manual, 8th edition.* The concurrency analysis evaluated 43 single-family lots and concluded the proposal would generate 49 weekday PM peak hour trips (31 trips in, and 18 trips out). Projects that generate 30 or more net new trips are required to be evaluated using the most current version of the City's transportation forecasting model. *IMC 18.15.260.D. Exhibits 10 and 11; Exhibit 19, Staff Report, page 10.*

[4] The SE 43rd Way and Providence Point Place SE intersection is designated as "T-24" on this exhibit.

26. The Applicant commissioned a traffic impact analysis to evaluate the proposed site access off SE 43rd Way. The analysis evaluated level of service and queuing for all turn movements in and out of the site based on project trip distribution from the City concurrency model. It also evaluated intersection sight distance. The Site Access Analysis recommends channelization improvements on SE 43rd Way for safe and efficient ingress and egress into the site, including adding a right turn pocket into the site, a center merge pocket, and a left turn pocket for vehicles entering the site from the east. *Exhibits 9 and 10; Exhibit 19, Staff Report, page 9.*

27. The concurrency model identified the intersections that would be impacted by 30 or more project trips, based on the project trip distribution. Issaquah's traffic concurrency model identified that one intersection will receive 30 or more PM peak hour trips and could be impacted by the proposed project: SE 43rd Way/East Lake Sammamish Parkway (roundabout). The concurrency analysis determined that the proposal would not impact the overall level of service of the SE 43rd Way/East Lake Sammamish Parkway. The concurrency ordinance requires mitigation only when a development will impact the level of service for the overall intersection, not specific movements at an intersection. Mr. Rosen issued a Certificate of Transportation Concurrency, No. CON13-0010, on March 4, 2014. *Exhibits 10 and 11; Exhibit 19, Staff Report, page 10.*

Non-motorized Facilities

28. The proposal would provide sidewalks with the frontage improvements on SE 43rd Way. A sidewalk would also be provided along the south side of Road 'A,' which fronts Lots 13-32. This would provide pedestrian facilities through the development and connect to SE 43rd Way. The subdivision also includes a trail for residents located in the tree retention area above the steep slopes. This would provide a non-motorized throughway connecting the development and will allow residents to enjoy the natural open space areas on the site. The tree retention area and trail are located on the back of Lots 13-39. *Exhibit 4; Exhibit 19, Staff Report, page 8.*

29. The City code also requires non-motorized off-road facilities in addition to sidewalks to link to adjacent developments, opens spaces, schools, or other activity centers and public facilities. *IMC 18.07.081.* There is a segment of a trail system along the south portion of the Providence Ridge property, following the alignment of the existing sanitary sewer trunk line and associated access road. This trail is known as the East Plateau Trail, or Laughing Jacobs Trail. The Applicant proposes a soft surface trail connecting the sidewalk on SE 43rd Way through the development's open space/critical area tract to connect to the trail segment. *Exhibit 5; Exhibit 19, Staff Report, page 4.*

Utilities

30. Water and sewer utilities would be provided by the Sammamish Plateau Water and Sewer District. A Certificate of Water Availability has been issued, and the Applicant has executed a Developer Extension Agreement with the District. The District would review

water and sewer plans with construction permits. A sewer lift station is necessary for sewer service. The station would include an emergency generator. *Exhibit 3; Exhibit 4; Exhibit 7; Exhibit 17; Exhibit 19, Staff Report, pages 11 and 12; Testimony of Mr. Rosen.*

Parks and Recreation, Schools

31. The proposed subdivision includes a significant amount of open space area and trails that will provide opportunities for passive recreation. The site is within one-and-a-half miles of soccer and baseball field areas and one-half mile from the Sammamish State Park boat launch area. The subdivision is in the Issaquah School District and is currently served by Sunny Hills Elementary School, Pine Lake and Pacific Cascade Middle Schools, and Skyline and Issaquah High Schools. The school district has indicated that school buses would stop on SE 43rd Way or enter the subdivision to pick up students. *Exhibit 19, Staff Report, page 12.*

Impact Fees

32. Impact fees are required for each new single-family residence. The following impact fees are required, and the applicable costs would be calculated when the City issues building permits for each residential unit: transportation, fire, schools, parks, general government (SEPA), and police (SEPA).

Public and Applicant Comment, and Staff Response

33. The City received written public comments on the application about the vicinity map being outdated, the lots being too small for children to play in, and concerns over traffic impacts on SE 43rd Way. The Muckleshoot Tribe also requested design details of the proposed bridge crossing the intermittent stream and accompanying mitigation measures. The City provided written responses, including these explanations: the vicinity map best showed the site location relative to East Lake Sammamish Parkway, the preliminary plat provides for trails and open space tracts that are accessible to residents and are near existing parks, and the Applicant has proposed channelization and road improvements for ingress/egress from SE 43rd Way to ensure safe access to the site. The City also wrote to the Muckleshoot Tribe that detailed plans for the bridge and mitigation plans would be provided prior to construction and building permits being issued. In an email, dated May 6, 2014, Garth Cray, an Environmental Engineer with the Washington State Parks & Recreation Commission, also expressed concern whether the project would incorporate a collection system for all impervious areas, including rooftops, to prevent concentrated runoff from affecting slopes and causing erosion. *Exhibit 13; Exhibit 19, Staff Report, pages 3 and 4; Exhibit 21.*

34. City Senior Environmental Planner Peter Rosen testified that the site is not adjacent to other developments, so it would not impact any other developments for purposes of an AAS. Mr. Rosen testified that, for lots north of Road 'A' (lots 1 through 12, 40, and 41), the front yard setback should be at least five feet to allow cars to safely back out of

garages.[5] Mr. Rosen also testified that the City reviewed and agreed with the Applicant's proposal to reduce the 50-foot steep slope buffer to 10 feet so long as the Applicant follows the geotechnical reports and retains trees adjacent to the slope. Mr. Rosen explained the City's proposed mitigation requirements and specifically addressed stormwater treatment at the proposed site. Mr. Rosen also testified that landscaping between SE 43rd Way and the proposed development is required. *Testimony of Mr. Rosen.*

35. Fred Foster, an adjacent property resident, submitted an aerial view of the site. He expressed concern about the traffic on SE 43rd Way and, in addition, suggested that the existing trail in the Providence Point development should not be opened to the public. *Exhibit 20; Testimony of Mr. Foster.*

36. Susan Forbes, another adjacent property resident, also expressed concern over the traffic impacts on SE 43rd Way. Ms. Forbes also questioned how stormwater discharge into the existing stream would protect the environment from oils and fertilizers. *Testimony of Ms. Forbes.*

37. Patrick Rooney asked whether a sound buffer between SE 43rd Way and houses on the site would be appropriate. Mr. Rooney also expressed concerns over the traffic on SE 43rd Way. *Testimony of Mr. Rooney.*

38. The Applicant explained that a traffic signal is eventually proposed at the intersection of SE 43rd Way and Providence Point Drive, and that the proposed improvements for the Providence Ridge plat are intended to "tie into" improvements involving the eventual traffic signal. Mr. Krabbe also testified that the plans do not call for opening of the Providence Point development trail to the public. He also stated that the area is within the Sensitive Lake Overview and, accordingly, increased scrutiny would be applied to ensure that stormwater is appropriately treated and filtered before entering the existing stream. Mr. Rosen testified that on-slope trees at the site would be maintained by a Homeowner's Association and that there will be no buffer between SE 43rd Way and site houses except landscape requirements of the City. *Testimony of Mr. Krabbe; Testimony of Mr. Rosen.*

39. City Engineer Doug Schlepp testified that the City will maintain the developed stormwater facility and that traffic problems on SE 43rd Way are a concern all along the street (not just at the site proposal). *Testimony of Mr. Schlepp.*

City Staff Recommendation

[5] This safety concern is not present for the other lots in the development because, on the south side of Road 'A,' a planter strip and sidewalk of 10-foot width separates the lots from the street. *Exhibit 4; Exhibit 19, Staff Report, page 15.*

40. City staff determined that, with proposed conditions, the proposal would be consistent with the Issaquah Comprehensive Plan, Issaquah Land Use Code, and other application development regulations, including Chapter 18.13 IMC (Subdivision Code) and RCW 58.l17.110 (Washington State Subdivision Code). City staff recommended approval of the preliminary plat and the AAS. *Exhibit 19, Staff Report, pages 13 through 19; Testimony of Mr. Rosen.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has authority to hear and approve, conditionally approve, or disapprove the preliminary plat request after review of the preliminary plat, the administration's recommendation, testimony, and exhibits submitted at the public hearing. The Hearing Examiner makes the final decision on preliminary subdivisions. *Issaquah Municipal Code (IMC) 18.03.060.B; 18.03.170; 18.04.490.C.1; 18.13.140.A.*

Criteria for Review

Preliminary Plat

Preliminary plat proposals are reviewed through the Modified Level 4 review process and must comply with all the standards and criteria set forth in Chapter 18.13 IMC. *IMC 18.04.480 and 18.04.490.C.1.*

The standards and criteria regarding preliminary plats set forth in Chapter 18.13 IMC are established to promote the orderly and efficient division and re-division of land within the city, to avoid placing undue and unnecessary burdens on both the Applicant and the City, and to promote the public health and general welfare, complying with the provisions of Chapter 58.17 RCW. The criteria for review of a preliminary plat are set forth in RCW 58.17.110(2), as follows:

> A proposed subdivision and dedication shall not be approved unless the city, town, or county legislative body makes written findings that:
> (a) Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
> (b) The public use and interest will be served by the platting of such subdivision and dedication.

RCW 58.17.110(2).

Prior to any approval of the preliminary plat, all minimum street and utility improvements, or reasonable conditions deemed necessary to fulfill the purpose of the subdivision code, shall be

specified by the Hearing Examiner, and the Applicant shall be advised of such. *IMC 18.13.140.B.*

The criteria for review adopted by the Issaquah City Council are designed to implement the requirement of Chapter 36.70B RCW to enact the Growth Management Act. In particular, RCW 36.70B.040 mandates that local jurisdictions review proposed development to ensure consistency with City development regulations, considering the type of land use, the level of development, infrastructure, and the characteristics of development. *RCW 36.70B.040.*

Administrative Adjustment of Standards

A request for an AAS to reduce building setbacks on individual lots is reviewed through the Level 2 review process. Where there are multiple permit applications for a development, however, as here, all permit decisions are to be made by the decision-maker with the highest level of review. *IMC 18.04.160.*

The criteria for an AAS are set forth in IMC 18.07.330.B:

> 1. Compatibility: The adjustment of setbacks is compatible in scale and character with existing neighboring land uses; and
> 2. Consistency: The proposed development meets all other development and design standards as governed by the District Standards Table and the Design Criteria Checklist, unless those standards are modified through approved:
> a. Cluster provisions; or
> b. An Administrative Adjustment of Standards; and
> 3. Consistency with Zoning District: The adjustment of setbacks shall provide consistency with the intent and character of the zoning district involved; and
> 4. Impacts:
> a. Adjacent Property Owner(s): The adjustment of setbacks does not negatively impact the adjacent property owners;
> b. Critical Areas: The adjustment of standards is consistent with the purpose and intent of the critical area regulations, and does not negatively impact any adjacent critical areas;
> c. Public Services: The adjustment of setbacks does not negatively impact public services, including emergency access, access to right-of-way, dedicated tracts, or easements; and
> d. Structure(s): Any structure(s) which is within the proposed setback modification area does not negatively impact the adjacent property through incompatible height, bulk, design, color or other feature; and
> 5. Intent: The adjustment of standards will be equal to or superior in fulfilling the intent and purpose of the original requirements; and
> 6. Impervious Surface Ratio: The required impervious surface area for the property is not exceeded; and
> ...

8. Tree Retention: The adjustment allows for a reduction in the required setbacks in order for the placement of a building to be adjusted on the lot for the retention of existing significant trees. Significant trees retained through this provision shall be considered protected trees and not able to be removed without replacement. (Ord. 2546 § 3, 2008; Ord. 2233 § 13, 1999; Ord. 2108 § 7.2.18.8, 1996).

Conclusions Based on Findings

1. **With conditions, appropriate provisions will be made for the public health, safety, and general welfare, and appropriate provisions will be made for open spaces, drainage ways, streets, transit stops, potable water supplies, sanitary wastes, parks and recreation, schools and school grounds, and all other relevant facts.** The property is designated Low Density Residential by the City Comprehensive Plan. The LDR designation provides for a variety of housing types and densities, while also protecting critical areas. The Applicant would protect critical areas and open spaces on the proposed site by limiting development to approximately six acres of the 12-acre site and prohibiting development on wetlands, wetland buffer areas, and stream buffers in perpetuity (apart from a proposed public trail with accompanying footbridge). The Applicant would protect trees on the proposed site by recording tree protection easements on each lot benefitting the City. Residential development is normally permitted within SF-SL zoning districts at a maximum density of 7.26 dwelling units per acre. The City code allows for a 70 percent density credit, however, when 31-40 percent of the proposed site is encumbered with critical areas. Accounting for density credit, the site's proposed 42 lots fall below the allowable maximum density. The SF-SL zoning designation typically requires a 6,000 square foot minimum lot size, but permits smaller lots to accommodate density transfer from critical areas. The present proposal's smaller lot sizes comport with the goals of the SF-SL zoning designation. The SF-SL zoning designation allows a maximum impervious surface area of 50 percent. Over half of the total proposed site area is in critical areas/buffers and open spaces, thereby meeting this requirement. In addition, the site plan shows conceptual building footprints on each of the lots, and all lots must meet the 50 percent impervious surface limit. The Applicant estimates that the overall impervious surface area for the development would be approximately 35 percent, and building and development permits will require each lot to meet the 50 percent impervious surface limit requirement. Stormwater runoff from the proposed development would be collected by a proposed on-site drainage system and discharged into a proposed detention vault. The project area is within an especially sensitive area and, accordingly, increased scrutiny of stormwater treatment is necessary because phosphorous must be filtered and removed from the collected stormwater before it is discharged into the existing stream. The City would maintain the system after development. The Sammamish Plateau Water and Sewer District would provide water and sewer service. The Site Access Analysis recommends reducing the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback. The Site Access Analysis also recommends channelization improvements on SE 43rd Way for safe and efficient ingress

and egress into the site, including adding a right turn pocket into the site, a center merge pocket, and a left turn pocket for vehicles entering the site from the east. The City has issued a certificate of transportation concurrency. Schools are located near the proposed development, and the Applicant would provide safe pedestrian access for students to access school bus stops. The Applicant would pay transportation, fire, schools, park, general government, and police impact fees at the time of building-permit issuance. The proposed development meets the City's design standards and provides adequate parking, landscaping, and tree retention. The site plans require reducing the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback. Such condition is approved. Conditions are necessary to ensure compliance with MDNS conditions; adequate provision for site work permits; yard setbacks; impervious surface limits; trail easements; tree retention monitoring; fire safety measures; unifying features to foster community; support of pedestrian activities; impact fees; and critical area regulations. *Findings 1, 3 through 40.*

2. **With conditions, the public use and interest would be served by the platting of such subdivision and dedication.** The City provided adequate notice and opportunity to comment on the request. The City reviewed the proposed plat and issued an MDNS, with conditions to mitigate potential significant adverse impacts. *Findings 1 through 40.*

3. **With conditions, the public use and interest will be served by granting an AAS for the proposed plat.** The City provided adequate notice and opportunity to comment on the request. The City reviewed the proposed plat and AAS, and issued an MDNS, with conditions to mitigate potential significant adverse impacts. Residential development is typically allowed within the SF-SL zoning district with the following minimum lot setbacks: 10-foot front yard setbacks; 6-foot side yard setbacks; and 20-foot rear yard setbacks. Because of accommodation for critical areas, the proposed site requests an AAS for: 3-foot front yard setbacks; 3-foot side yard setbacks; and 17-foot rear yard setbacks. The site is not directly adjacent to surrounding developments and the proposed AAS will not conflict with existing neighborhood land uses. On the south side of Road 'A,' a planter strip and sidewalk (10-foot width) allow such setbacks. The north side of Road 'A' does not include a planter strip, and sidewalk and setbacks of a minimum of five feet are necessary to allow safe back-out distances from garages. The subject site is relatively isolated from surrounding development and will not negatively impact properties or result in incompatible building heights, bulks, etc., with the development area. Provisions generally applicable to the preliminary plat adequately address other concerns typically associated with an AAS, such as impervious surfaces and tree retention. *Findings 1 through 40.*

DECISION

Based on the preceding Findings and Conclusions, the request for a preliminary plat to subdivide 12 acres into 42 single-family residential lots; to reduce the steep slope buffer from 50 feet to 10 feet, with a 15-foot building setback; and to reduce lot sizes below the zoning minimum to

accommodate the transfer of density from the environmental critical areas at 221XX SE 43rd Way in Issaquah, Washington is **APPROVED,** subject to the following conditions:

1. The Applicant shall provide details of the intermittent stream crossing to ensure the bridge design spans the ordinary high water mark, is adequately designed for high flows, and to quantify the enhancement planting relative to the stream buffer impact. Plans shall be submitted and approved by the City prior to issuance of construction permits.
2. All cited geotechnical design requirements, recommendations, and development practices specified in the Liu and Associates geotechnical reports and the Geotechnical Engineering Slope Stability Analysis by E3RA shall be followed. This shall be reviewed on construction plans and approved by the City prior to issuance of construction permits.
3. Walls shown on the plans shall be designed/engineered as retaining structures, rockeries are not considered to be retaining structures. This shall be reviewed on construction plans and approved by the City prior to issuance of construction permits.
4. An interceptor trench drain shall be provided, consistent with the recommendations in the Liu and Associates geotechnical reports. This shall be reviewed on construction plans and approved by the City prior to issuance of construction permits.
5. The Applicant shall construct a stormwater system that complies with the Sensitive Lake Overlay and Enhanced Water Quality Treatment requirements identified by the Applicant. The City agrees to maintain this system.
6. Detailed design of structures and retaining walls shall be reviewed for compliance with code criteria in IMC 18.10.580, prior to issuance of building or construction permits.
7. The Applicant shall submit a geotechnical report evaluating specific building plans and grading plans prior to the issuance of construction and building permits. The geotechnical report shall follow City of Issaquah Development Services "Soils Report Requirements." A third-party independent review of the geotechnical report may be required at the Applicant's expense.
8. The tree retention areas located on Lots 13-39 shall be preserved by recording a tree protection easement on the lots. The tree protection easement shall be required on final plat drawings and shall be written to benefit the City.
9. Approved tree protection measures shall be in place prior to any other construction or demolition activities. Such measures may be installed in conjunction with limits of clearing and grading delineation.
10. Channelization improvements on SE 43rd Way are necessary for safe and efficient access and egress into the site, including adding a right turn pocket into the site, a center merge pocket, and a left turn pocket for vehicles entering the site from the east. Channelization plans for SE 43rd Way shall be approved by the City prior to issuance of construction permits.
11. Traffic calming devices for SE 43rd Way, such as a raised median, traffic buffers, and speed enforcement measures, shall be considered prior to issuance of building permits.
12. The Applicant shall mitigate for potential impacts on public services with a voluntary contribution for the General Government Buildings and Police Mitigation Fees. The mitigation fee shall be paid prior to issuance of building permits; the actual fee amount shall be determined at the time of payment.

13. The Applicant shall apply for a Site Work Permit to construct the roads, utilities and grading of the lots. A final plat review will follow after subdivision infrastructure has been installed or bonded for prior to recording.

14. Where side yard setbacks are less than 5 feet, the building code requires fire resistant wall construction, limited wall openings, etc. This will be reviewed with building permits.

15. The 50 percent impervious surface limit must be met on each of the lots; this requirement will be reviewed and verified with building permits.

16. The trail located along the back of Lots 13-39, in the tree retention area, shall be field-located to avoid impacts and removal of significant trees. The trail alignment shall be approved by the Development Services Department prior to trail construction. A trail easement shall be recorded on the final plat to ensure access for all residents.

17. A public trail will connect the sidewalk on SE 43rd Way through the development's open space/critical area tract to connect to the regional East Plateau Trail or Laughing Jacobs Trail, which follows the alignment of the existing sanitary sewer trunk line and associated access road. A public access easement for the trail connection shall be provided on the final plat. A wayfinding sign shall be provided along SE 43rd Way to indicate public trail access.

18. With reduced front yard building setbacks, driveways may not be of sufficient length to allow for parking because cars would overhang onto sidewalks impeding pedestrians or encroach into the street where sidewalks are not provided which could obstruct emergency access. Therefore, driveways shall provide a length of at least 18 feet on-site if intended for parking or shall be less than eight feet in length to clearly indicate they are not designed to accommodate parking. This requirement shall be reviewed with building permits.

19. The Applicant shall monitor the tree retention area for a minimum of 3 years. Where trees in the tree retention areas are lost to blowdowns or need to be removed as hazard trees, the Applicant shall plant replacement trees consistent with the City's landscape code for replacement trees, IMC18.12.1390.

20. No trees are to be damaged or removed, except as shown on approved plans or as is determined to be unsafe by a certified arborist with a tree risk assessment qualification.

21. All homes located over 150 feet from an approved fire apparatus turnaround shall have a fire sprinkler system installed.

22. To maintain fire and emergency access, the roads shall be signed for "no parking, fire lane."

23. Eastside Fire & Rescue (EF&R) allows a 15 percent maximum grade for fire department access roads. The Applicant shall provide a letter from a WA State Engineer to EF&R stating that the final grade will not exceed 15 percent. Otherwise, the installation of an NFPA 13D fire sprinkler system may be required for the homes accessed from project roads.

24. The north side of Road 'A' does not include a planter strip and sidewalk. Houses setback three feet from the road lack adequate, safe back-out distance from garages and/or potentially for pedestrians leaving houses. Therefore, the setbacks for houses on the north side of Road 'A' shall be a minimum of 5 feet.

25. To encourage unifying features to foster community, the front doors of all residences shall be visible and clearly oriented to the street. This will be reviewed with building permits.

26. To minimize the predominance and visibility of residential garages, the garages shall be recessed or setback from the front door entries to the residences. This will be reviewed with building permits.

27. To support pedestrian activity within the development, there shall be a clear pedestrian path between the front door of the residences and the sidewalk or street, separate from the driveway. This will be reviewed with building permits.

28. With the proposed narrow lots, driveway widths could dominate front yards. Driveway cuts along the streets shall be limited to a 16-foot width and driveway widths limited to 18-feet. This will be reviewed with building permits.

29. Impact fees are required for each new single-family residence. The following impact fees will be required and the applicable cost calculated at the time of issuance of building permits for each residential unit: Transportation, Fire, Schools, Parks, General Government (SEPA), Police (SEPA).

30. The following critical area regulation conditions shall apply prior to issuance of the final plat:

    1) Permanent survey stakes shall be set to delineate the boundaries between critical area tracts and adjoining lots.

    2) Signs between critical area tracts and adjacent lots shall be installed, explaining the type and value of the critical area.

    3) The final plat shall include language to protect the critical area tracts) from development in perpetuity.

Decided this 22nd day of May 2014.

THEODORE PAUL HUNTER
Hearing Examiner
Sound Law Center